

Governing Body Minutes – June 15, 2021

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, June 15, 2021. The Governing Body members of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Valdivia-Alcala, Emerson, Padilla, Duncan and Lesser - 6; and the following Councilmembers participating remotely: Councilmembers Ortiz and Naeger - 2. Mayor De La Isla presided - 1. Absent: Councilmember Dobler.

Public comment for the meeting was available via Zoom or in-person. Individuals were required to contact the City Clerk's Office at 785-368-3940 or via email at cclerk@topeka.org by no later than 5:00 p.m. on June 15, 2021, after which the City Clerk's Office provided the Zoom link information and protocols prior to the meeting start time. Written public comment was also considered to the extent it was personally submitted at the meeting or to the City Clerk's Office located at 215 SE 7th Street, Room 166, Topeka, Kansas, 66603 or via email at cclerk@topeka.org on or before June 15, 2021, for attachment to the meeting minutes.

AFTER THE MEETING was called to order, Lisa Davis, New Mount Zion Baptist Church Community Outreach Coordinator, provided the invocation.

THE PLEDGE OF ALLEGIANCE was recited by meeting participants.

BOARD APPOINTMENT recommending the appointment of John Dietrick to the Washburn University Board of Regents for a term ending July 1, 2025, was presented. (*Council District No. 7*)

BOARD APPOINTMENT recommending the appointment of Nicole Karr to the Shawnee County Juvenile Corrections Advisory Board for an unexpired term ending July 12, 2024, was presented. (*Council District No. 7*)

Councilmember Hiller moved to approve the appointments. The motion seconded by Councilmember Lesser carried unanimously on roll call vote. Mayor does not vote. (8-0-0)

A PRESENTATION on the City of Topeka 2020 Year End Audit was provided by Kristen Hughes, Audit Senior Manager, RSM U.S. LLP.

Councilmember Duncan asked Ms. Hughes to verify the corrections listed on pages 8 and 9 from audit year 2019 have been rectified.

Ms. Hughes stated the City created a corrective action plan as required and they have found no repeat issues.

Jessica Lamendola, Administrative and Financial Services Director, thanked the City of Topeka Finance Team and noted Staff was present to answer questions.

CONSENT AGENDA was presented as follows:

ORDINANCE NO. 20301 introduced by City Manager Brent Trout, allowing and approving City expenditures for the period March 27, 2021, through April 30, 2021, and enumerating said expenditures therein, was presented.

APPROVAL of the following Cereal Malt Beverage license applications were presented:

<u>Business Name</u>	<u>Address</u>
Bwell Market	600 SE Quincy St.
Dollar General #4046	1920 SW 10 th Ave.
Dollar General #13381	3410 SE 29 th St.
Dollar General #15245	4500 SE California Ave.
Gas N Shop	1900 NW Topeka Blvd.
Target Store T-0355	2120 SW Wanamaker Rd.

MINUTES of the regular meeting of June 8, 2021, was presented.

Councilmember Valdivia-Alcala moved to approve the consent agenda. The motion seconded by Councilmember Emerson carried unanimously on roll call vote. (9-0-0)

RESOLUTION NO. 9229 introduced by Councilmember Sylvia Ortiz, supporting a fundraiser at Hummer Park to benefit the Topeka Housing Trust Fund, was presented.

Councilmember Ortiz stated Topeka JUMP challenged the City to utilize the Housing Trust Fund, an initiative supported by other Governing Body members. She reported the City in collaboration with Topeka Public Schools USD 501, would host a free movie on August 21, 2021, at the Hummer Sports Park to request Housing Trust Fund donations. She asked the Governing Body to support the resolution.

Councilmember Ortiz moved to approve the resolution. The motion was seconded by Councilmember Emerson.

Lisa Robertson, City Attorney, asked Councilmember Ortiz to confirm that the intent of the motion was to approve the amended resolution distributed at the beginning of the Governing Body meeting.

Councilmember Ortiz confirmed the intent of the motion was to approve the resolution as amended. The second concurred.

Councilmember Naeger asked Staff to clarify what amount the Governing Body previously approved for the Housing Trust Fund as well as how those funds would be used.

Brent Trout reported the Governing Body approved Resolution No. 9224 authorizing the use of 2020 General Fund Surplus in the amount of \$250,000 as match funds for the Housing Trust Fund. He stated once \$250,000 of private donations has been received the City will allocate \$250,000 of match funds to the Housing Trust Fund. He noted the \$241,000 of Neighborhood Revitalization Program (NRP) funding, collected over the term of the program, would need further discussion by the Governing Body on how to spend the funds.

Councilmember Hiller thanked Councilmember Ortiz for taking the initiative to organize the fundraiser and engage the community.

The motion to approve the resolution as amended carried unanimously on roll call vote. (9-0-0)

ACCEPTANCE of Land Dedications in the Final Plat for Sherwood Park Subdivision No 9 which is located north of SW 27th Street and West SW Lagito Drive, all being within the City of Topeka, Shawnee County, Kansas, was presented. (P21/09)(Council District No. 8)

Bill Fiander, Planning and Development Director, reported the development would consist of 94 new single-family residential lots on approximately 38 acres. He stated the applicant conducted a neighborhood information virtual meeting via Zoom on April 21, 2021, resulting in questions related to stormwater drainage, traffic impact on SW 26th Street (east of the proposed subdivision), phasing and restrictive covenants. He noted the final plat approved by the Planning Commission, addresses the traffic concerns along SW 26th Street. He reported the Planning Commission and the Topeka Planning and Development Department recommend approval.

Councilmember Duncan expressed his appreciation to Staff for working on the traffic concerns; however, residents expressed concern with water flow movement. He asked if Staff has reviewed the water flow in the area.

Bill Fiander reported approval of the plat was contingent upon the water being contained in accordance with the City of Topeka Utilities Department approved stormwater management plan.

Jeff Laubach, representative for the applicant stated there has been a reduction in the drainage area from six acres to two acres.

Councilmember Hiller asked if the subdivision would provide market rate housing (in the range of \$125,000 to \$250,000) a need identified in the City's Affordable Housing Study.

Bill Fiander stated he was unsure of the price range of homes and this would be determined by the developer. He reported the current cost for new construction homes range from \$200,000 to \$350,000.

Councilmember Duncan moved to accept the land dedications in the Final Plat for Sherwood Park Subdivision No 9. The motion seconded by Councilmember Emerson carried unanimously on roll call vote. (9-0-0)

APPROVAL of Amendment No. 2 to City of Topeka Contract No. 48038, a Joint Memorandum of Agreement concerning group healthcare cost-sharing with the labor unions for 2020-2022 was presented. (*Contract No. 49595*)

Brent Trout, City Manager, reported the proposed amendment relates to group healthcare cost sharing with City labor unions for years 2020-2022, and would have no effect on Amendment No. 1, approved in June 2020. He stated the City presented the unions with a proposal in March 2021 to provide employees with additional incentive points based on receiving COVID-19 and flu vaccinations. He stated all seven unions jointly met and conferred with management and reached a tentative agreement, subject to a ratification vote by each union, and if ratified, the agreement would come before the Governing Body for approval. He noted employees who satisfy the wellness incentive criteria reduce the cost of the employee's health care premium by 13% and another 1% premium discount is available to spouses enrolled in the City's health plan but spousal criteria is not affected by this amendment.

Councilmember Hiller asked if the incentive applies to the year 2021.

Jacque Russell, Human Resources Director, stated the incentive period for the 2022 incentive is November 1, 2020 through October 31, 2021.

Councilmember Duncan stated he wants to clarify for the public that the decision regarding the incentive is not a vaccine mandate and does not penalize employees who do not receive the vaccination.

Councilmember Valdivia-Alcala moved to approve Amendment No. 2 to City of Topeka Contract No. 48038. The motion seconded by Councilmember Padilla carried unanimously on roll call vote. (9-0-0)

APPROVAL of a two-year labor agreement between the City of Topeka and the Water Division of AFSCME Council 61, Local 1294, was presented. (*Contract No 49596*)

Brent Trout, City Manager, stated they reached a tentative agreement with bargaining units for a two-year period beginning January 1, 2021. He stated the agreement provides for a one-step increase each year of the contract for employees who meet the qualifications for a step (no level 3 or 4 disciplinary actions and an overall annual performance evaluation of “Meets Expectations”). He stated an across the board pay matrix increase of 0.75% for 2021, and 1.5% for 2022 is provided with a lump sum bonus of \$250 for employees in the top step of their classification.

Councilmember Ortiz asked staff to negotiate three-year contracts instead of two-year contracts to streamline the approval process.

Councilmember Emerson moved to approve the two-year labor agreement between the City of Topeka and the Water Division of AFSCME Council 61, Local 1294. The motion seconded by Councilmember Valdivia-Alcala carried unanimously on roll call vote. (9-0-0)

AN ORDINANCE introduced by Councilmember Spencer Duncan, eliminating residency requirement for cereal malt beverage retail licenses and revising hours of sale for retail liquor stores and cereal malt beverage retailers, amending Topeka Municipal Code Sections 5.55.070, 9.15.100 and 9.15.250, was presented.

(The Governing Body approved one ordinance document on June 15, 2021, by a vote of 9-0-0. The ordinance amended (1) Cereal Malt Beverage (CMB) License Residency Requirements; and (2) Sunday Hours of Operations for CMB Retailers and Retail liquor Stores. State law requires that the Sunday hours of operation change be subject to a 60-day protest period, following the publication of the ordinance for two consecutive weeks in the Topeka Metro Newspaper. As such, the Legal Department split the amendments into two separate ordinances because the residency requirement is not subject to a protest petition.)

ORDINANCE NO. 20302 introduced by Councilmember Spencer Duncan, eliminating residency requirements for cereal malt beverage retail licenses amending Topeka Municipal Code Section 5.55.070, was presented.

ORDINANCE NO. 20303 introduced by Councilmember Spencer Duncan revising hours of sale for retail liquor stores and cereal malt beverage retailers, amending Topeka Municipal Code Sections 9.15.100 and 9.15.250, was presented.

Councilmember Duncan reported the amendment to State liquor laws expanded the hours of operation for retail liquor stores and cereal malt beverage retailers effective May 27, 2021. He stated staff has fielded several calls from retail liquor storeowners and CMB retailers inquiring about the change of operating hours. He stated the operating hours of liquor stores and CMBs on premise require a 60-day protest period, which ends on August 27, 2021. The ordinance would authorize the following:

- 1) Expand the opening hours of retail liquor stores on Sundays from noon to 9 a.m.;
- 2) Expand the opening hours of Cereal Malt Beverages (CMB) on-premises on Sundays from noon to 9:00 a.m.; and

- 3) Remove county and state residency requirements for CMB retailers in light of a U.S. Supreme Court decision that determined that residency requirements violated the Commerce Clause provision of the U.S. Constitution.

Councilmember Duncan moved to approve the ordinances. The motion seconded by Councilmember Padilla carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Valdivia-Alcala, Ortiz, Emerson, Padilla, Naeger, Duncan, Lesser and Mayor De La Isla -9.

CHARTER ORDINANCE NO. 121 introduced by Councilmember Spencer Duncan, repealing City of Topeka Charter Ordinance No. 61 (TMC A3-2) and Charter Ordinance No. 62 (TMC A3-3) which address cereal malt beverage license requirements, was presented.

Councilmember Duncan reported the proposed charter ordinance was a companion document to the previous ordinance eliminating residency requirements for CMB retailers as required by Topeka Municipal Code Section 5.55.070.

Councilmember Duncan moved to adopt the charter ordinance. The motion seconded by Councilmember Lesser carried unanimously (9-0-0)

The charter ordinance was adopted on roll call vote as follows: Ayes: Hiller, Valdivia-Alcala, Ortiz, Emerson, Padilla, Naeger, Duncan, Lesser and Mayor De La Isla -9.

DISCUSSION regarding Bird Scooters was presented.

Brent Trout, City Manager, stated Adam Davis a representative with Bird Scooters would provide a presentation and address issues related to the use of the scooters.

Adam Davis, Bird Scooters Government Partnerships Manager, provided an overview of the Bird Scooter program including information on rider engagement, education efforts, fines and suspension of service. He reported Bird has deployed geofence technology in the Downtown "No Wheel Zone" to slow riders down, and during specific times, bring them to a

gradual stop; as well as, in High Skid Mark Areas all identified problem areas will be slowed down to 0 mph at all times, and they are actively working with the City of Topeka Police Department to resolve issues and identify offenders.

Councilmember Lesser inquired on the implementation plan for installing nonskid wheels on the scooters already located in Topeka as well as the installation of microchips to identify offenders.

Councilmember Hiller thanked Topeka residents for reporting scooter issues in the downtown area. She mentioned the “No Wheels Zones” in the downtown area and suggested decals be placed on the ground so it would be easier to read the signs.

Councilmember Valdivia-Alcala questioned if the scooters parked at SW 17th Street and SW Washburn Avenue were blocking the ADA accessible area. She expressed concern with potential ADA accessible violations in other parts of the city.

Councilmember Duncan questioned infractions for repeat offenders; how fines are processed, and if there are any open investigations at this time. He also questioned how a person would file a report for scooter concerns. He stated he would support the program if these issues could be resolved.

Brent Trout reported offenders in the “No Wheels Zone” will be issued a City citation; Staff would work in collaboration with Bird representatives to identify the person operating the scooter; and there are no current investigations be conducted at this time.

In response, Adam Davis reported the following:

- New technology would be difficult at this time due to logistics and lack of microchips available within the United States.
- The replacement of tires would not be cost effective at this time as it makes more sense to install the tires on new scooters.
- Bird continues to make every effort to educate employees so they are ADA compliant in terms of the placement of scooters.

- He provided a brief overview of the investigation process, noting the 11:00 p.m. shutdown time is based on scooter usage data.
- Greater Topeka Partnership has identified a power wash company to have any defacing of property removed.

Councilmember Lesser expressed his disappointment with Bird Scooters and their decision not to replace scooter wheels and avoid further vandalism. He stated he would like to see the program work; however, he does not support the use of any type of law enforcement resources to regulate the scooters.

Councilmember Emerson inquired on ad hoc geofence technology response time. He asked if this type of reporting is the first step in helping address issues being reported.

Councilmember Hiller requested additional information on geofence technology.

Councilmember Naeger asked if there were multiple payment options to rent a scooter and if a smart phone is required to engage in the operation of a scooter.

In response, Adam Davis stated the following:

- 1) It was his understanding most issues reported are addressed within an hour, however, the initial reporting step must be taken in order to address and resolve issues for a successful program in Topeka.
- 2) The City has the option to prohibit the use of scooters in other parts of the city in the same manner as Gage Park and parking garage areas.
- 3) Bird has the ability to work with various organizations to implement community pricing.
- 4) At this time, a smart phone is required to operate a scooter, however, they continue to work on alternative payment options.

DISCUSSION concerning the Revenue Neutral Rate (RNR) provided to the City by Shawnee County, was presented.

Brent Trout, City Manager, reported the City received the Revenue Neutral Rate (RNR) from Shawnee County and the majority of property valuations in the city have increased. He stated if the City decides not to exceed the revenue neutral rate, the mill levy rate must be reduced by approximately (\$1 million) in order to accommodate current expenses to operate at

the current staffing level, as it would exceed the RNR. He stated he plans to submit a budget that captures the additional property tax valuation, an amount needed in order to cover the costs of salaries, public safety personnel and other personnel costs along with various needed expenses. He referenced the 2022 Budget Calendar and reported if the Governing Body decides to exceed the RNR the deadline to notify Shawnee County is July 20, 2021, and the City must conduct a public hearing on the proposed tax rate between August 20, 2021 and September 20, 2021.

Councilmember Hiller referenced the revised budget calendar and if they could approve the 2022 Operating Budget by August 25, 2021, as they have in the past.

Brent Trout reported that if the Governing Body decides not to exceed the RNR the budget adoption deadline would remain the same as in previous years.

Councilmember Duncan clarified the Governing Body must decide by July 20, 2021, if they will adopt a budget that exceeds the RNR or not.

Jessica Lamendola requested the Governing Body make a decision by July 16, 2021, regarding whether they would like to hold the RNR hearing or not and if so, how much do they want to capture above the RNR.

Councilmember Duncan spoke in opposition of conducting a public hearing if the Governing Body decides not to exceed the RNR.

Bill Cochran, Chief of Staff, reported the State recommends all taxing entities hold a public hearing in order to allow time to make the proper decision.

Jessica Lamendola reported a public hearing and affirmative vote by the Governing Body to exceed the RNR would provide a safe guard for the City in the event the November 2021 property tax income changes incrementally, and is above the RNR, otherwise the City would be required to pay back constituents the difference.

PUBLIC COMMENT was submitted via electronic mail by Joseph Ledbetter (*Attachment A*); and provided by the following individual:

John Williams expressed concern with a citation he received from the City relating to the height of a fence that has been located on his property for approximately 24 years. He stated he would like to remedy the issue with the City.

Mayor De La Isla referred Mr. Williams to Chief of Staff Cochran for assistance.

ANNOUNCEMENTS BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE COUNCIL;

Brent Trout, City Manager, thanked Assistant City Attorney Catherine Walter for her service. He announced Mary Kuckelman would serve as the new Assistant City Attorney beginning June 21, 2021.

Mayor De La Isla expressed the importance of addressing gun violence in the community and referenced a recent incident involving the death of two children due to gun violence. She congratulated Washburn University for completing their fundraising goal for the new Washburn Law Building; and she announced the ribbon cutting ceremony for the Jayhawk Theatre that occurred on June 8, 2021. She referenced various Juneteenth celebrations in the city including the Juneteenth Parade on June 12, 2021.

Councilmember Hiller announced yoga sessions are being offered at Everygy Plaza as well as Thursday evening Eats and Beats, along with other various events throughout the city. She stated she believes the State Legislature should allow municipalities to be in charge of their own gun control. She stated the prompt action by the Governing Body to approve Resolution No. 9228 expanding Amtrak service was well received by many supporters at all levels of government.

Councilmember Valdivia-Alcala commended Jim Parrish for always being gracious and kind while working with the Fiesta Committee. She stated the shootings in the community are appalling and implored everyone to be careful with their firearms. She thanked Cheryl Thomas for assisting with organizing the Juneteenth Parade.

Councilmember Ortiz referenced recent announcements by the Topeka Police Department concerning gun safety. She announced Gibbs Elite Academy Basketball Camp in partnership with Topeka Public Schools USD 501 is offering a free basketball camp for children in grades 5th - 8th. She stated those interested in registering for the camp may do so on the Topeka Public Schools Facebook page. She encouraged people to support the local businesses along SE 6th Street during construction season. She asked if there was funding available for sidewalks along the area of SE 10th Avenue and SE California Avenue near I-70.

Councilmember Emerson confirmed there are plans to construct sidewalks along SE 10th Avenue as requested by Councilmember Ortiz.

Councilmember Padilla asked those in the community to think about what type of quality of life they want in regards to gun violence and to help those who are struggling.

Councilmember Naeger announced Topeka Music Week would take place during June 18-26, 2021; Josey's Baking Company Kegs and Kolaches event would take place on the second Saturday of each month from 5:00 p.m. to 9:00 p.m.; and the new Morocann restaurant Tagine, located at 3121 SW Huntoon, would be open Wednesdays through Saturdays from 5:00 p.m. to 9:00 p.m.

Councilmember Duncan stated he attended the Washburn Law Groundbreaking Ceremony on June 11, 2021. He announced the June 17, 2021, District 8 Open Office Hours has

been cancelled and would resume July 3, 2021. He thanked Ray Blocksome, Topeka resident in collaboration with City Staff, for updating the planters along SE 8th Street.

Councilmember Lesser thanked James Jackson, Public Works Director; Bill Cochran, Chief of Staff; Brent Trout, City Manager; and Braxton Copley, Director of Utilities for assisting with property and infrastructure issues. He thanked Councilmember Valdivia-Alcala for her assistance in dealing with a proprietorship issue in District 9.

NO FURTHER BUSINESS appearing the meeting adjourned at 8:45 p.m.

(SEAL)

Brenda Younger
City Clerk

Attachment A

Kelly L. Bogner

From: Joseph Ledbetter <joe@josephledbetter.com>
Sent: Tuesday, June 15, 2021 4:40 PM
To: City Clerk; City Council; Neil Dobler; Tony Emerson; Michael Lesser; Michelle De La Isla
Subject: My Public Comments Tonight June 15th,2021, Ref Supp. 6 of CIP Report 2020 Review and Solutions.

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

My Comments after review:

We have too much revenue bond debt.\$271 Millions and counting... Freeze ALL borrowing for revenue bonds this year IMMEDIATELY!.

CITY Needs a CPA as the Finance Director who will sign off on ALL Budget items and expenditures. Do this immediately.

We Need City Council authorization on ALL Contracts over \$50,000.dollars. Do this immediately!

We did \$71 MILLIONS in contracts LAST Year w/o any Council vote. We did \$78 Millions in 2019!

Also recommend putting Utilities immediately under Public Works, like it was under Neil Dobler in 2004.

Supp 6 of CIP claimed Utilities spending \$2million on 12th Street in water lines this year when it is closer to \$800,000 because total 12th project waterline replacement is \$2.4 million. Also , by the way, \$750,000 of that is from County sales tax-not water revenue, or revenue bonds.I did not see that DISCLOSED in the supplement 6.

This means only about \$1.6 Million is spent on water line replacement this year INSTEAD of \$6.5 Millions reported in the CIP Report. \$5Million short on construction?! Ridiculous and we claim we are RAISING water rates to replace the broken,aging lines!> This would be 25% of budgeted construction spending this year! Ridiculous folks.

Joseph Ledbetter JD, MPA